



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/149742

PRELIMINARY RECITALS

Pursuant to a petition filed June 03, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on July 03, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly determined Petitioner's FoodShare allotment to be \$52.00 per month, effective June 1, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703
By: Katherine May, HSPC
Milwaukee Enrollment Services
1220 W. Vliet St.
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On May 17, 2013, the agency sent Petitioner a notice indicating that her benefits would be ending effective June 1, 2013, because she had not completed her renewal. (Exhibit 2, pgs. 13-14)
3. Petitioner filed a request for fair hearing that was received on June 3, 2013. (Exhibit 1)

4. On June 3, 2013, the agency sent Petitioner a new notice indicating that as of June 1, 2013, she would be receiving \$52.00 per month in FoodShare benefits. (Exhibit 5)
5. There are two people in Petitioner's household, neither of whom are elderly, blind or disabled. (Testimony of Petitioner)
6. Petitioner pays rent in the amount of \$540 per month.
7. Petitioner earns income from the Wisconsin IRIS program (IRIS), working 42 hours per pay period, at \$8.00 an hour. Petitioner is paid bi-weekly. (Exhibit 3, pgs. 19 & 22)
8. Petitioner also earns income from Mid-America Healthcare Corporation (Mid-America) working an average of 26.25 hours per week at \$10.40 an hour. Petitioner is paid bi-weekly. (Exhibit 3, pgs. 20 & 21)

DISCUSSION

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has a member over age 60. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FSH § 4.3.1.* The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH §4.1.1.*

Petitioner's gross income is determined as follows:

IRIS: 42 hours per pay period x \$8.00 per hour = \$336.00 per bi-weekly pay period
 \$336 x 2.15 average bi-weekly pay periods per month = \$722.40 per month

Mid-America: 51.75 hours per week x \$10.40 an hour = \$538.20 per bi-weekly pay period
 \$538.20 x 2.15 average bi-weekly pay periods per month = \$1157.13

**It should be noted that the copy of Petitioner's paystub, that the agency provided, was mostly illegible, but it appeared to show that Petitioner worked 26.25 hours one week and 25.50 hours the second week; which is consistent with the information contained in the Employer Verification Form that Mid-America completed for Petitioner.*

\$722.40 + \$1157.13 = \$1879.53 gross monthly income

The following deductions are applied to gross income, in order to calculate the FoodShare allotment: (*FSH, at § 4.6*):

- (1) a standard deduction –

This was is \$149 per month for a household of 1 to 3 people. *7 CFR § 273.9(d)(1)*:

- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and

- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 CFR § 273.9(d)(5).

The heating standard utility allowance (HSUA) is \$442 per month.

There is a cap of \$469.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

FSH, §§ 4.6.7.1 and 8.1.3.

The term ‘disabled’ is a term with a definition as to the FoodShare program:

3.8.1.1 EBD Introduction

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).

FSH, §3.8.1.1.

Applying the foregoing to Petitioner we have the following net income calculation:

Gross Income	\$1879.53	Rent	\$540.00
Earned Income Deduction	-\$375.91	HSU	\$442.00
Standard Deduction	-\$149.00	50% Net income	-\$677.31
No Medical Expenses exceeding \$35			
No Dependent Care Expenses		Excess Shelter Expense	\$304.69
<hr/>			
Net Income	\$1354.62		
Excess Shelter Expense	-\$304.69		
<hr/>			
Net Income	\$1049.93		

Individuals, in a household of two, with a net income of \$1049.93 qualify for a FoodShare allotment of \$52.00 per month. *FSH §8.1.2.*

CONCLUSIONS OF LAW

The agency correctly determined Petitioner’s FoodShare allotment to be \$52.00 per month, effective June 1, 2013.

THEREFORE, it is

ORDERED

That the Petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

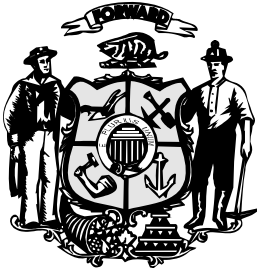
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 22nd day of July, 2013.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 22, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability